



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

BJG
Docket No: 4377-00
25 October 2000

GYSG [REDACTED] SR
[REDACTED]
[REDACTED]

Dear Gunnery Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by Headquarters Marine Corps, dated 22 September 2000, a copy of which is attached. They also considered your counsel's letter dated 16 October 2000.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion, except they noted your status as a member of the Fleet Marine Corps Reserve would not preclude correcting your naval record to show you were promoted while you were on active duty. They disagreed with your counsel's contention that the "gravaman [sic] of this case rests with the propriety of the RS [reporting senior]'s actions." Rather, they found the central issue was whether there were adequate grounds to remove you from the 1993 Master Sergeant Selection List. They found there were adequate grounds for this action. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

Copy to:
Gary R. Myers, Esq.



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

4377-00

IN REPLY REFER TO:

1400/3
MMPR-2
22 Sep 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: ADVISORY OPINION IN THE CASE OF GUNNERY SERGEANT [REDACTED]
[REDACTED] RETIRED

Ref: (a) CMC, ltr 1450/5 over MMPR-2 of 18 Mar 94
(b) MCO P1400.32A par 1203.8 (Enlisted Promotion Manual)

1. Mr. [REDACTED] retired Marine, has requested reinstatement to master sergeant based on his selection by the 1993 Sergeant Major through Master Sergeant Selection Board. Per reference (a), the Commandant of the Marine Corps properly administratively deleted Gunnery Sergeant [REDACTED] from the 1993 Sergeant Major through Master Sergeant selection list due to his failure to maintain the high standards of personal and professional performance that led to his selection. Nothing in his official military service file has changed to warrant reconsidering the decision to remove his name from the selection list.

2. In his petition, [REDACTED] asserts that, because the reporting senior did not believe the two DUI/DWI incidents would result in conviction, he (the RS) did not report them [REDACTED] fitness reports. We note that a conviction is not a necessary prerequisite for determining that [REDACTED] was in fact, driving under the influence of alcohol on two occasions, and driving aboard base while his driving privileges were revoked. Based on these facts alone, the commander recommended revocation of his selection for failing to maintain the high standards of conduct that led to his selection. [REDACTED] retired from the Marine Corps on 31 March 1997 at the grade of gunnery sergeant. Per reference (b), Marines on the Retired List or in the Fleet Marine Corps Reserve (FMCR) are not eligible for promotion except when assigned to extended active duty (EAD) with the Regular establishment.

3. Gunnery Sergeant [REDACTED] should not be promoted to master sergeant per references (a) and (b). We recommend his petition be denied.

[REDACTED]
[REDACTED]
Head, Enlisted Promotion Section
Promotion Branch
By direction of
the Commandant of the Marine Corps